

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**ANTERO RESOURCES CORPORATION
and ANTERO MIDSTREAM LLC,**

Plaintiffs,

v.

**CIVIL ACTION NO. 1:20-cv-00147
JUDGE THOMAS S. KLEEH**

**BRADDOCK CONSTRUCTION, LLC,
DAVID WEIMER, KRISTEN WEIMER,
and JOHN DOE CORPORATIONS 1-10,**

Defendants,

and

BRADDOCK CONSTRUCTION, LLC,

Third Party Plaintiff,

v.

**SAFETY CONCERN, INC., TIMOTHY
SIVIC, JAMES MEYERS AND
DOTPROCESSAGENTS.COM, LLC,**

Third Party Defendants.

JOINT MOTION TO VACATE SCHEDULING ORDER

COME NOW the undersigned parties by their respective counsel and, pursuant to Rule 16.01(f)(1) of the Local Rules of Civil Procedure for the United States District Court for the Northern District of West Virginia, respectfully request that the Court vacate the deadlines set forth in the October 4, 2021, Scheduling Order [Docket No. 19] and Order the parties to participate in a second planning meeting, and submit a revised report of such planning meeting. In further support of this motion, the undersigned parties state as follows:

1. The Complaint in this action was filed by Antero resources Corporation and Antero Midstream, LLC (collectively “Antero”) against Braddock Construction, LLC (“Braddock”), David Weimer, Kristen Weimer (collectively the “Weimers”), and John Doe Corporations 1-10.

[Docket No. 1]. The Complaint generally alleged claims for indemnity, breach of contract, and declaratory judgment, and contained a theory of recovery against the Weimers and John Doe Corporations by piercing the corporate veil.

2. Braddock answered the Complaint, while the Weimers and John Doe Corporations filed a motion to dismiss alleging that the Plaintiff cannot maintain a claim or theory of recovery for piercing the corporate veil under the facts alleged. [Docket Nos. 11 & 12].

3. Antero responded to this motion [Docket no. 15], and the Weimers and John Doe Corporations replied [Docket No. 17]. Thus, briefing was complete on this matter on December 28, 2020.

4. The Parties took part in initial disclosures. On April 15, 2021, Antero served their First set of Interrogatories and Requests for Production to Braddock, Kristen Weimer, and David Weimer. [Docket Nos. 25, 26, and 27]. Much of the discovery requests involved information related to the finances and business relationships of Braddock and other allegedly potentially related entities.

5. On April 29, 2021, Kristen Weimer, Dave Weimer, and John Doe Corporations filed a motion for protective order and to stay portions of discovery because the pending motion to dismiss would eliminate the need for discovery of those defendants if granted. [Docket No. 30]. Antero filed its response [Docket No. 33] and Defendants replied [Docket No. 36]. Thus, briefing was complete on this matter on May 18, 2021.

6. As a result of the filing of this motion for protective order and motion to stay, the Weimers have not responded to the April 15, 2021, discovery requests.

7. In addition to the standstill in discovery between Antero and Braddock, third-party defendants have filed a motion to dismiss.

8. On December 18, 2020, Braddock filed a third-party complaint against Safety Concern, Inc., Timothy Sivic, James Meyers, and DOTPROCESSAGENTS.COM, LLC (“Third-Party Defendants”). The Complaint contained allegations against all these Third-Party Defendants for negligence, negligent misrepresentation, and professional negligence. Braddock seeks “defense and indemnification” against these Third-Party Defendants.

9. Stipulations for acceptance of service for these Third-Party Defendants were filed on March 10 and March 12, 2012 [Docket Nos. 22 and 23].

10. On April 26, 2021, Safety Concern, Inc., Timothy Sivic, and James Meyers filed a motion to dismiss the Third-Party Complaint, and an accompanying memorandum in support. [Docket Nos. 28 and 29]. The motion to dismiss generally argued that: (1) the negligence claims set forth in the Third-Party Complaint are time-barred, (2) the third-party complaint violates Fed.R.Civ.P. 14(a)(1), and (3) this Court should decline to exercise jurisdiction pursuant to the Colorado River doctrine. DOTPROCESSAGENTS.COM joined this motion on May 11, 2021.

11. Braddock responded to the motion to dismiss the Third-Party Complaint on May 10, 2021 [Docket No. 31], and briefing is complete on this issue.

12. Recognizing that discovery was limited and complicated by the various pending motions, on July 7, 2021, the Parties filed a joint stipulation extending the deadlines for expert disclosures. [Docket No. 38].

13. The revised deadline for Plaintiffs’ expert disclosures is September 1, 2021. The parties recognize that it is not possible to disclose experts on that date given the outstanding discovery issues, and that the upcoming deadlines will not be practical considering the pending motions.

14. In light of the pending motions to dismiss and for a protective order/stay certain discovery, the undersigned parties, pursuant to L.R. Civ. P. 16.01(f)(1), request that this Honorable

Court VACATE the current scheduling order and set a telephone status conference where the Court and the parties can discuss the current status of this litigation and develop a strategy for setting a new case management order.

15. Thereafter, the parties will be able to take part in a second planning meeting, pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure, on or before October 15, 2021, and submit a revised Report of Parties Planning meeting by October 31, 2021.

WHEREFORE, for the reasons set forth herein and those reasons apparent to the Court, undersigned parties respectfully request that the Court enter an Order VACATING the current scheduling order, schedule a status conference with the Court and thereafter enter an ORDER that the parties take part in a second planning meeting, pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure, on or before October 15, 2021, and submit a revised Report of Parties Planning meeting by October 31, 2021, together with such other and further relief as the Court deems necessary or appropriate.

Respectfully submitted this 1st day of September, 2021.

Respectfully submitted,

/s/ Jordan V. Palmer, Esq.

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CERTIFICATE OF SERVICE

I, Jordan V. Palmer, do hereby certify that on 1st day of September, 2021, I served ***Joint Motion to Vacate Scheduling Order*** upon the parties hereto upon all counsel of record by the Court's CM/ECF electronic filing system to the following counsel of record:

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